

Internal Revenue Service

Department of the Treasury

District  
Director

1100 Commerce St., Dallas, Texas 75242

Date: APR 21 1995

Person to Contact:

Telephone Number:

Refer Reply To:

EO:TS:4920 DAL:RW

Dear Applicant:

We have completed our consideration of your application for exemption under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3).

According to your Articles of Incorporation, you were formed for the purpose of operating of motor vehicles on oval dirt tracks, the advancement and promotion of oval dirt track racing in and throughout the [REDACTED] States, including [REDACTED], and the promoting of the general welfare and interest of the members.

You conduct twelve stock car races per year every other weekend from March through September. Entry fees are charged for each car and driver competing in the races. Spectators pay a fee to attend the races. Advertising on billboards and in race programs is sold to area businesses. Drivers compete for cash prizes. You are a membership organization and member drivers receive a fifty percent discount on entry fees. They may also receive discounts at other tracks out of town. The racetrack is owned by the county and is provided to you at no charge. Your activities are conducted by volunteers. Even though drivers compete for cash prizes, you refer to them as amateurs. You state that you develop amateur racers who can later go on to professional and national competition at professional racetracks where the prize money is considerably larger than the prizes you pay.

Your operation was run through the county recreation program in earlier years. In [REDACTED], you were separately incorporated as a [REDACTED] nonprofit corporation. For [REDACTED], your gross receipts from all sources were \$[REDACTED]. You paid out prize money in the amount of \$[REDACTED] that year. For the period [REDACTED] through [REDACTED], gross receipts were \$[REDACTED] and prize money amounted to \$[REDACTED]. Prize money is by far your largest expenditure.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, \*\*\* fund, or foundation, organized and operated exclusively for religious, charitable, scientific, \*\*\* literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(a)(2) The term "exempt purpose or purposes," as used in this section, means any purpose or purposes specified in section 501(c)(3), as defined and elaborated in paragraph (d) of this section."

"(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its "articles") as defined in subparagraph (2) of this paragraph:

(a) Limit the purposes of such organization to one or more exempt purposes; and

(b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

"(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be

considered dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

"(c)(1) Primary activities. An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Organizations which operate exclusively to foster national or international amateur sports competition may qualify for exemption under section 501(c)(3) if they primarily operate to conduct or to support and develop amateur athletes for national or international competition in sports. Although you may operate on a smaller scale than the raceways you refer to as professional, drivers who enter your races are competing for cash prizes. They are not amateurs in that they regularly compete for monetary prizes. Secondly, your activities are purely of a local nature. You do not conduct national or international amateur athletic events nor is your focus on supporting or developing amateur athletes for national or international competition. Accordingly, we have determined that you are not operated exclusively for one or more of the charitable purposes specified in section 501(c)(3) of the Code.

Further, because your purposes in your Articles of Incorporation are not limited to one or more of the purposes specified in section 501(c)(3) and because your Articles of Incorporation do not dedicate your assets to charity in the event of dissolution, you do not meet the organizational requirements of section 501(c)(3) and the regulations thereunder.

Accordingly, because we have determined that you are not organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) of the Code, tax-exemption under section 501(c)(3) is denied.

[REDACTED]

We also considered whether you would qualify for exemption under section 501(c)(4) of the code as an organization which operates exclusively to promote in some way the common good and general welfare of the community. You did not apply for recognition of exemption under section 501(c)(4) of the Code, but because certain types of amateur sports organizations have been held to qualify for exemption under section 501(c)(4), we will also address your qualifications under that section. See Revenue Ruling 70-4, 1970-1 C.B. 126 which held that an organization which promoted and regulated an amateur sport did not qualify for exemption under section 501(c)(3) as charitable or educational, but did qualify under section 501(c)(4) because promoting and regulating a sport for amateurs provided wholesome activity and entertainment for the social improvement and welfare of the community. Also see Revenue Ruling 74-298, 1974-1 C.B. 133 which held that an organization whose sole activity was sponsoring and conducting a professional golf tournament did not qualify for exemption under section 501(c)(4) of the Code. Membership was open to all residents of the community and the organization was formed to provide recreation and entertainment for the citizens and visitors to the community. Admission fees were charged to the public and disbursements were for prize money, course rental, and other administrative expenses. The ruling held that the golf tournament was carried on with the general public and was operated in a manner similar to tournaments operated for profit. Therefore, the organization did not qualify for exemption under section 501(c)(4) of the Code.

As illustrated in the above rulings, promoting an amateur sport may support exemption under section 501(c)(4), but conducting professional sporting events in the manner described therein will not. Although you pay smaller prizes, you are operated in a manner similar to for-profit tracks and, like the organization described in Revenue Ruling 74-298, you do not qualify for exemption under section 501(c)(4) of the Code.

Accordingly, because we have determined that you do not qualify for exemption under section 501(a) of the Code, you should file federal income tax returns.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United

[REDACTED]

States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter

Sincerely,

[REDACTED]

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Form 6018